

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RAFAEL MENDOZA

Plaintiff(s),

*-against-*THE ROMAN CATHOLIC ARCHDIOCESE OF NEW
YORK, CARDINAL HAYES HIGH SCHOOL AND JOHN
PADDACK

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

To the above named Defendant(s)

The Roman Catholic Archdiocese of New York, 1101 First Avenue, New York, NY 10022;
Cardinal Hayes High School, c/o Paul Sanders, 39th Floor, Worldwide Plaza, 825 8th Ave, New York, NY 10019;
John Paddock, 405 W. 114th Street, New York, NY 10019

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendants' principal place of business,
which is in New York County

Dated: August 16, 2019

Seeger Weiss LLP

by

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

RAFAEL MENDOZA,

Index No. _____

Plaintiff,

-against-

COMPLAINT

THE ROMAN CATHOLIC ARCHDIOCESE
OF NEW YORK, CARDINAL HAYES HIGH SCHOOL,
and JOHN PADDACK,

JURY TRIAL DEMANDED

Defendants.

Plaintiff, Rafael Mendoza, by and through the undersigned attorneys, complains of The Roman Catholic Archdiocese of New York, Cardinal Hayes High School, and John Paddack, and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

PARTIES

1. Plaintiff Rafael Mendoza is a thirty-seven- (37-) year-old resident of New York. Plaintiff was a minor at the time of the sexual abuse alleged herein.

2. Defendant Archdiocese of New York ("New York Archdiocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials and employees authorized to conduct business in the State of New York with its principal place of business at 1101 First Avenue, New York, New York 10022, in New York County, New York.

3. Defendant Cardinal Hayes High School ("Cardinal Hayes") is a Catholic High School for boys that operates under the authority of Defendant New York Archdiocese. It is located

at 650 Grand Concourse, The Bronx, New York 10451. It can be served with process via personal service on Paul Sanders, 39th Floor, Worldwide Plaza, 825 Eighth Avenue, New York, New York 10019.

4. Defendant John Paddock currently resides and may be served with process at 405 W. 114th Street, New York, New York 10025 or wherever he may be found.

JURISDICTION AND VENUE

5. This Court has personal jurisdiction over the Defendants pursuant to CPLR §§301 and 302, in that each Defendant resides in New York or Plaintiff's claims arise from the tortious acts of Defendants that were committed in the State of New York.

6. The Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

7. Venue is proper in the County of New York under CPLR §503 because at least one of the parties to this suit reside in this county at the time this suit was commenced and all or a substantial part of the events or omissions giving rise to this cause of action occurred in New York, New York.

8. The federal courts lack jurisdiction over this suit. Plaintiff's claim raises no federal question nor does Plaintiff seek relief under a federal law, statute, regulation, treaty, or the United States Constitution. Accordingly, Plaintiff's right to relief does not depend on the resolution of a substantial question of federal law. Further, this lawsuit cannot be removed because there is no complete diversity, as at least one Defendant resides or has their principal place of business in New York. Therefore, removal would be improper.

FACTS

9. When Plaintiff Mendoza was a teenager, he began to experience significant problems in his home life. In addition to fighting persistently with his parents, Plaintiff suffered from anxiety, depression, and suicidal thoughts.

10. Attempting to seek help, Plaintiff Mendoza sought assistance from Defendant Cardinal Hayes' guidance counselor, Defendant Paddack, who was an ordained priest in the Roman Catholic Church.

11. Defendant Paddack immediately and perniciously took advantage of Plaintiff's vulnerable condition. Under the guise of performing medical inspections or procedures, Defendant Paddack would grope and fondle Plaintiff's genitals.

12. This sexual assault was not an isolated occurrence. Defendant Paddack required Plaintiff to visit him weekly or bi-weekly for months during which time Defendant Paddack repeated his sexual abuse.

13. Each of these visits involved the same or a closely similar routine – Defendant Paddack would pull Plaintiff close to him, touch Plaintiff's face and shoulders and nestle his knee into Plaintiff's crotch. Once Defendant Paddack violated Plaintiff's personal space, he would direct Plaintiff to disrobe and would proceed to probe Plaintiff's chest with a stethoscope.

14. At no time during the period of abuse did Plaintiff suffer from any sickness or physical ailment for which he sought any medical attention from Defendant, nor did Defendant's examinations have any medical or therapeutic purpose. Nor were Defendant's examinations performed for any administrative or governmentally-mandated purpose.

15. Upon information and belief, and has been the subject of recent media reports, at least four (4) other former students or members of Paddack's parishes have accused Defendant

Paddack of sexually abusing them while they were minors at the following Catholic schools or churches in New York City: Cardinal Hayes High School in the Bronx, St. Joseph by the Sea High School on Staten Island and the Church of the Incarnation in Upper Manhattan.

16. Defendants New York Archdiocese and Cardinal Hayes continue to conceal important information about Paddack and other credibly accused priests, including their pattern of grooming and sexual abuse.

17. As a foreseeable, direct, and proximate result of Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great, permanent harm, including but not limited to severe emotional distress, humiliation, embarrassment and loss of self-esteem.

18. Plaintiff has also suffered a severe disruption of his enjoyment of life, as well as his relationships with family, fellow Catholics, and others. His religious faith, together with its fellowship and other benefits, has been destroyed.

19. The trauma suffered by Plaintiff has resulted in chronic mental health issues, drug addiction and alcoholism, all of which have required and/or will require counseling and other treatment.

CAUSES OF ACTION AGAISNT DEFENDANT PADDACK

A. ASSAULT

20. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

21. Defendant Paddack's abuse of Plaintiff placed Plaintiff in imminent apprehension of harmful contact, was committed intentionally and in wanton disregard for the health and/or safety of Plaintiff and is a tortious assault under the law of New York.

22. This assault was a proximate cause of the harms and damages to Plaintiff.

B. BATTERY

23. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

24. Defendant Paddack uninvited and offensive touching of Plaintiff was a battery upon Plaintiff and a violation of Plaintiff's body and done intentionally in wanton disregard for the health and/or safety of Plaintiff.

25. This battery was a proximate cause of the harms and damages to Plaintiff.

C. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

27. Defendant Paddack's conduct toward Plaintiff was extreme and outrageous. The damage that such conduct would cause Plaintiff was intended by Defendant Paddack, or Defendant Paddack disregarded a substantial likelihood of the damage such conduct caused.

28. As a foreseeable, direct, and proximate result of Defendant Paddack's actions, Plaintiff suffered severe emotional distress.

**CAUSES OF ACTION AGAINST DEFENDANTS NEW YORK ARCHDIOCESE AND
CARDINAL HAYES**

A. VICARIOUS LIABILITY/*RESPONDEAT SUPERIOR*

29. Plaintiff affirmatively pleads that any alleged tortious acts of Defendant Paddack were committed while he was acting in the course and scope of his employment with Defendants New York Archdiocese and Cardinal Hayes, or while he was acting as an agent or on behalf of Defendants New York Archdiocese and Cardinal Hayes and are thus imputed to Defendants under a legal theory of *respondeat superior*.

B. NEGLIGENCE

30. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

31. Defendants New York Archdiocese and Cardinal Hayes held themselves out to be safe places for religious worship, spiritual development and growth, learning and education, or engaging in youth and/or community activities. Defendants New York Archdiocese and Cardinal Hayes had, adopted, and/or assumed an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

32. Defendants New York Archdiocese and Cardinal Hayes owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Defendant Paddack, in their role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer.

33. Defendants New York Archdiocese and Cardinal Hayes breached their duties of care in one or more of the following ways:

- a. Negligently hiring Defendant Paddack as they knew or should have known that Defendant Paddack posed a threat of sexual abuse to children;
- b. Negligently retaining Defendant Paddack as they knew or should have known that Defendant Paddack posed a threat of sexual abuse to children;
- c. Negligently directing Defendant Paddack as they knew or should have known that Defendant Paddack posed a threat of sexual abuse to children;
- d. Negligently supervising Defendant Paddack as they knew or should have known that Defendant Paddack posed a threat of sexual abuse to children;
- e. Failing to investigate the background of Defendant Paddack before placing them into close contact with Plaintiff;
- f. "Covering up" or otherwise failing to disclose the harmful acts of Defendant Paddack;

- g. Failing to warn Plaintiffs, his parents and/or legal guardians of Defendant Paddack's conduct despite having constructive knowledge of sexual abuse;
- h. Failing to warn Plaintiffs, his parents and/or guardians of Defendant Paddack's conduct despite having actual knowledge of sexual abuse;
- i. Assigning Defendant Paddack to have contact with Plaintiff despite having constructive and/or actual knowledge of sexual abuse;
- j. Minimizing, ignoring or excusing priestly misconduct over a period of decades;
- k. Failing to provide a safe environment to children and other parishioners within the churches, sacristies, schools and rectories operated and/or owned by the Archdiocese;
- l. Failing to train priests and Archdiocesan employees to identify signs of child molestation by fellow employees;
- m. Failing to implement and maintain effective policies and procedures to prevent sexual abuse and abuse of children;
- n. Failing to investigate complaints of abuse properly;
- o. Failing to report Defendant Paddack's sexual abuse to appropriate law enforcement agencies; and
- p. Failing to exercise due care under the circumstances.

34. As a foreseeable, direct, and proximate result of the negligence of Defendants New York Archdiocese and Cardinal Hayes, Plaintiff has suffered and will continue to suffer the injuries described herein.

C. GROSS NEGLIGENCE

35. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

36. The acts and omissions of Defendants New York Archdiocese and Cardinal Hayes, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of Plaintiff and the general public. The nature of Defendants New York Archdiocese's and Cardinal Hayes'

acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendants New York Archdiocese and Cardinal Hayes undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to expose Plaintiff and others to sexual abuse and/or sexual assault and exercised not even slight care or diligence. When viewed objectively from the standpoint of Defendants New York Archdiocese and Cardinal Hayes at the time of their occurrence, said acts and omissions involved reckless disregard of or indifference to an extreme degree of physical, mental, and psychological risk and danger, considering the probability and the magnitude of the potential harm to others. Defendants New York Archdiocese and Cardinal Hayes committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a foreseeable, direct, and proximate cause of the occurrence and Plaintiff's injuries and damages.

D. BREACH OF FIDUCIARY DUTY

37. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

38. There is a fiduciary relationship between Plaintiff and Defendants New York Archdiocese and Cardinal Hayes. This relationship is based on the fact that Plaintiff trusted his physical, mental, psychological, and spiritual care to the priests, officers, directors, officials, employees, volunteers, servants, and/or all those acting as agents of Defendants New York Archdiocese and Cardinal Hayes or on their behalf, who held themselves out as beholden to a spiritual and interpersonal duty to provide advice, benefit, and guidance to Plaintiff.

39. Because of this fiduciary relationship, Defendants New York Archdiocese and Cardinal Hayes were required and had a duty to act in the best interests of Plaintiff and to protect him while he was a minor child.

40. Defendants New York Archdiocese and Cardinal Hayes breached their fiduciary duty to Plaintiff.

41. As a foreseeable, direct, and proximate result of the breach of fiduciary duty by Defendants New York Archdiocese and Cardinal Hayes, Plaintiff has suffered and will continue to suffer the injuries described herein.

E. BREACH OF NON-DELEGABLE DUTY

42. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

43. When Plaintiff was a minor, he was placed into the care of Defendants New York Archdiocese and Cardinal Hayes for the purpose of providing Plaintiff with a safe environment in which to receive and education and/or participate in religious worship, spiritual development, and community service. Because Defendants New York Archdiocese and Cardinal Hayes were entrusted with the care of Plaintiff while he was a minor child, there existed a non-delegable duty of care that went from Defendants New York Archdiocese and Cardinal Hayes to Plaintiff.

44. Since Plaintiff was a minor child at the time, Defendants New York Archdiocese and Cardinal Hayes were in the best position to prevent the abuse that Plaintiff suffered at the hands of Defendant Paddack, and/or stop such abuse when they learned of it.

45. Defendants New York Archdiocese and Cardinal Hayes failed to prevent the abuse and harm Plaintiff suffered, and/or they failed to stop it once they were aware of or should have

been aware of the abuse. This failure was a breach of Defendants New York Archdiocese's and Cardinal Hayes' non-delegable duty to Plaintiff.

46. As a foreseeable, direct, and proximate result of this breach, Plaintiff suffered significant injuries and long-lasting damages.

F. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

47. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

48. As described in Sections B-E, Defendants New York Archdiocese and Cardinal Hayes owed Plaintiff various duties, which Defendants New York Archdiocese and Cardinal Hayes negligently breached. Defendants New York Archdiocese's and Cardinal Hayes' negligence unreasonably endangered Plaintiff and caused him to fear for their own safety.

49. As a foreseeable, direct, and proximate result of Defendants New York Archdiocese's and Cardinal Hayes' negligence, Plaintiff suffered severe injuries, including but not limited to mental and emotional distress.

G. BREACH OF DUTY *IN LOCO PARENTIS*

50. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

51. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendants f New York Archdiocese and Cardinal Hayes or the purpose of providing Plaintiff an education and spiritual development.

52. During the times that Plaintiff was at school or present for spiritual development, he was under the control and supervision of Defendants New York Archdiocese and Cardinal

Hayes. These Defendants owed a duty to Plaintiff to act in loco parentis and to prevent foreseeable injuries.

53. Defendants New York Archdiocese and Cardinal Hayes breached their duty to act in loco parentis. As a foreseeable, direct, and proximate result of their breach of duty, Plaintiff suffered injuries.

H. FRAUDULENT CONCEALMENT

54. Plaintiff incorporates each and every allegation set forth in paragraphs 9 through 16 as if fully set forth herein.

55. For many years after Plaintiff's abuse at the hands of Defendant Paddack, Defendants New York Archdiocese and Cardinal Hayes engaged in a conscious, deliberate plan to conceal the abuse, including but not limited to:

- a. Concealing from the public the sexual abuse committed by Defendant Paddack;
- b. Concealing the identity of Defendant Paddack;
- c. Concealing from appropriate law enforcement officials the sexual abuse committed by Defendant Paddack against Plaintiff and/or other minors;
- d. Attacking the credibility of Plaintiff and/or other victims of Defendant Paddack; and
- e. Impeding or otherwise preventing Plaintiff and other victims from pursuing legal action against Defendants.

56. Defendants New York Archdiocese and Cardinal Hayes had a duty to disclose the information it concealed in Paragraph 52, and its concealment therefore amounted to a misrepresentation.

57. Defendants New York Archdiocese and Cardinal Hayes concealed this information with fraudulent intent, with the goal of inducing reliance.

58. Plaintiff, and others, justifiably relied upon Defendant New York Archdiocese's and Cardinal Hayes' concealment of this material information.

59. As a foreseeable, direct, and proximate result of Defendants New York Archdiocese's and Cardinal Hayes' concealment, Plaintiff suffered significant injuries.

DAMAGES

60. Plaintiff seeks compensation for the following damages that resulted from this incident:

- a. Past mental anguish of Plaintiff, and that he will, in all probability, suffer in the future;
- b. Past physical pain and suffering of Plaintiff, and that he will, in all probability, suffer in the future;
- c. The medical expenses that Plaintiff has incurred in the past and will, in all probability continue to incur in the future;
- d. Past and future lost wages;
- e. Loss of earning capacity;
- f. Cost of suit;
- g. Reasonable and necessary attorney's fees;
- h. Punitive damages;
- i. Exemplary damages; and
- j. Any and all other damages to which Plaintiff may be justly entitled.

PRESERVATION OF EVIDENCE

61. Plaintiff hereby requests and demand that Defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit,

or the damages resulting therefrom, including photographs; videotapes, audiotapes; recordings; business records; medical records; billing records; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; emails; voice mail; text messages; investigations; cellular telephone records; calendar entries; and any electronic image, data, or information related to Plaintiff(s), the references incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

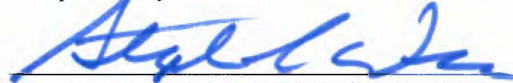
JURY DEMAND

62. Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from Defendants in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; that Plaintiff recovers punitive damages; and for such other further relief; both general and special, both in law and in equity, to which Plaintiff is entitled.

Respectfully submitted,



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